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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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57,100 1/14/00 12/14/00 12/14/00

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IMPROVED

EXAMINER

GEORGE H. LOU-1

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 12/14/00

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/24/50

Applicant(s)

Kuid et al.

Examiner

John Guarriello

Group Art Unit

1741

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☒ This action is **FINAL**.
- ☒ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-29 is/are pending in the application.
- Of the above claim(s) 11-28 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10, 29 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 1771

DETAILED ACTION

15. Restriction to one of the following inventions is required under

35 U.S.C. 121:

- I. Claims 1-10, 29, drawn to composite, classified in class 442, subclass 381.
- II. Claims 11-23, drawn to apparatus, classified in class 118, subclass 241.
16. III. Claims 24-28, drawn to method of making, classified in class 264, subclass 136.

17. The inventions are distinct, each from the other because:

18. Inventions I and III are related as process of making and product made.

The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the

Art Unit: 1771

product as claimed can be made by a materially different process by providing a plastic membrane over the fiberglass with microspheres distributed throughout the mat.

19. Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the product can be made by a materially different apparatus such as with nozzle means downstream from the coating bar.

20. Inventions II and III differ because the apparatus and the method of making the product of I, are not necessarily the same because they can require different steps of assembly whereby the coating means employs means for coating the material onto one or both sides.

Art Unit: 1771

21. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

22. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

23. During a telephone conversation with Jeffrey C. Lew on 8/23/2000, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-10, 29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

24. The following is a quotation of the first paragraph of 35 U.S.C. 112:

Art Unit: 1771

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

25. Claims 4 and 5 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for **polymeric latex composition**, does not reasonably provide enablement for "acrylic polymer".

The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The specification on page 9, lines 9-18 specifies a polymeric latex composition with a specified viscosity and at a specified temperature, page 9, lines 16-17.

26. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1771

27. Claims 1-10, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, it is not clear what "roughly textured face" encompasses since the "body layer" can have two surfaces and there is no clear specificity in the specification as to what surface of the "body layer" is **textured**.

In claim 1, line 3, it is not clear what encompasses the aspects of "uniform thickness" since the specification gives little or no specificity of the degree of **uniformity**.

In claim 1, line 4, it is not clear what encompasses the phrase "less than the thickness". This could mean the "thickness" of the **cover layer** or the thickness of the **body layer**, or other layers in between these layers, clarify.

In claim 7, line 2, it is not clear what is encompassed by the phrase "varies at most". This could mean varies directly with what layer as an upper

Art Unit: 1771

limit or a lower limit, or varies inversely with what layer as an upper limit or lower limit.

In claim 9, it is not clear where the "second web" is encompassed on a surface of the "body layer" since no specificity of the surfaces of the "body layer" is specified in claim 1.

In claim 10, it is not clear what is encompassed by "second web". See reasons in claim 9.

In claim 29, line 4, it is not clear what "capable of curing" encompasses since this represents no patentable limitation because "capable of" is not a definite limitation.

Claim Rejections - 35 USC § 102

28. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Art Unit: 1771

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hegg 3,615,969.

Hegg describes a foamed core laminate which is similar (cellular foam) to the claimed invention of a cover layer and a body layer, (see abstract). Hegg describes a polyester skin with a fiberglass reinforcement over a polyurethane foam core, (column 1, lines 41-62). Hegg describes the essential limitations of the claimed invention. Claims lack novelty.

29. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Buzza et al. 5,625,999.

Art Unit: 1771

Buzza describes a sandwich panel(which is similar to the body layer and cover layer with a composite) with a foam core, fiberglass skin encapsulating and surrounding the core and a gel coating surrounding the skin (similar to the polymeric coating), (see abstract; column 3, lines 18-34). Buzza describes a thickness of 80 mils, which is within the claimed invention, (column 5, lines 40-64). Buzza describes the essential limitations of the claimed invention. Claims lack novelty.

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 1, 3-5, 7, 8, 10, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzza et al. 5,625,999 in view of Ponder et al. 6,000,437.

Art Unit: 1771

Buzza describes a sandwich panel (like a composite with a body layer and cover layer) as above in paragraph # 30 above with the exception that Buzza differs from the claimed invention because the polymeric latex coating layer is not stated.

Ponder describes an insulation sheet with a layer of nonwoven fiberglass whereby the fibers are entangled during web fabrication, (column 5, lines 22-29). Ponder describes a barrier layer which is applied as a polymeric latex component which is elastically deformable over the layer of nonwoven fiberglass, (column 5, lines 12-39; column 6, lines 12-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Buzza with the polymeric latex coating of Ponder motivated with the expectation that there would be an improvement in the moisture resistance in the composite.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone

Art Unit: 1771

number is (703) 308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

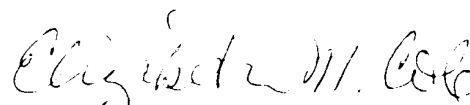
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



John J. Guarriello:gj

Patent Examiner

February 9, 2001



ELIZABETH M. COLE
PRIMARY EXAMINER